

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 531

Introduced by Assembly Member Saldana

February 25, 2009

An act to amend Section 6254.16 of the Government Code, to amend Section 25402.10 of the Public Resources Code, and to amend Section 394.4 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 531, as amended, Saldana. Energy consumption data: disclosure.

Existing

(1) *Existing* law requires electric and gas utilities to maintain records of the energy consumption data of all nonresidential buildings to which they provide service. Existing law requires an electric or gas utility, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, to upload all of the energy consumption data for the account specified for a building to the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager in a manner that preserves the confidentiality of the customer.

Existing law, including the California Public Records Act, prohibits the disclosure of a utility customer's personal information, except under specified circumstances.

This bill would exempt an electric or gas utility from ~~these~~ *certain* disclosure prohibitions when the electric or gas utility, *upon written authorization*, is uploading the energy consumption data for the account specified for a building to the United States Environmental Protection

Agency's ENERGY STAR Portfolio Manager. *The bill would provide this uploading satisfies specified confidentiality requirements.*

Existing

(2) *Existing* law requires an owner or operator, on and after January 1, 2010, to disclose the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager benchmarking data and rating to a prospective buyer, lessee of the entire building, or lender that would finance the entire building.

The bill *instead* would ~~instead~~ require the owner or operator to disclose the benchmarking data and rating to a prospective buyer, lessee of the entire building, or lender that would finance the entire building based on a schedule of compliance established by the State Energy Resources Conservation and Development Commission.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6254.16 of the Government Code is
- 2 amended to read:
- 3 6254.16. Except as provided in subdivision (b) of Section
- 4 25402.10 of the Public Resources Code, nothing in this chapter
- 5 shall be construed to require the disclosure of the name, credit
- 6 history, utility usage data, home address, or telephone number of
- 7 utility customers of local agencies, except that disclosure of name,
- 8 utility usage data, and the home address of utility customers of
- 9 local agencies shall be made available upon request as follows:
- 10 (a) To an agent or authorized family member of the person to
- 11 whom the information pertains.
- 12 (b) To an officer or employee of another governmental agency
- 13 when necessary for the performance of its official duties.
- 14 (c) Upon court order or the request of a law enforcement agency
- 15 relative to an ongoing investigation.
- 16 (d) Upon determination by the local agency that the utility
- 17 customer who is the subject of the request has used utility services
- 18 in a manner inconsistent with applicable local utility usage policies.
- 19 (e) Upon determination by the local agency that the utility
- 20 customer who is the subject of the request is an elected or appointed
- 21 official with authority to determine the utility usage policies of the

1 local agency, provided that the home address of an appointed
2 official shall not be disclosed without his or her consent.

3 (f) Upon determination by the local agency that the public
4 interest in disclosure of the information clearly outweighs the
5 public interest in nondisclosure.

6 SEC. 2. Section 25402.10 of the Public Resources Code is
7 amended to read:

8 25402.10. (a) On and after January 1, 2009, electric and gas
9 utilities shall maintain records of the energy consumption data of
10 all nonresidential buildings to which they provide service. This
11 data shall be maintained, in a format compatible for uploading to
12 the United States Environmental Protection Agency's ENERGY
13 STAR Portfolio Manager, for at least the most recent 12 months.

14 (b) *(1)* On and after January 1, 2009, upon the written
15 authorization or ~~secure electronic authorization~~ of a nonresidential
16 building owner or operator, and notwithstanding ~~Section 394.4 of~~
17 ~~the Public Utilities Code and~~ Section 6254.16 of the Government
18 Code, an electric or gas utility shall upload all of the energy
19 consumption data for the account specified for a building to the
20 United States Environmental Protection Agency's ENERGY STAR
21 Portfolio Manager in a manner that preserves the confidentiality
22 of the customer.

23 *(2) Paragraph (1) satisfies the confidentiality requirements of*
24 *Section 394.4 of the Public Utilities Code.*

25 (c) In carrying out this section, an electric or gas utility may use
26 any method for providing the specified data in order to maximize
27 efficiency and minimize overall program cost, and is encouraged
28 to work with the United States Environmental Protection Agency
29 and customers in developing reasonable reporting options.

30 (d) (1) Based on a schedule developed by the commission
31 pursuant to paragraph (2) an owner or operator of a nonresidential
32 building shall disclose the United States Environmental Protection
33 Agency's ENERGY STAR Portfolio Manager benchmarking data
34 and ratings for the most recent 12-month period to a prospective
35 buyer, lessee of the entire building, or lender that would finance
36 the entire building. If the data is delivered to a prospective buyer,
37 lessee, or lender, a property owner, operator, or his or her agent is
38 not required to provide additional information, and the information
39 shall be deemed to be adequate to inform the prospective buyer,
40 lessee, or lender regarding the United States Environmental

1 Protection Agency's ENERGY STAR Portfolio Manager
2 benchmarking data and ratings for the most recent 12-month period
3 for the building that is being sold, leased, financed, or refinanced.

4 (2) The commission shall establish a schedule by which an
5 owner or operator is required to meet the requirements of this
6 subdivision.

7 (e) Notwithstanding subdivision (d), this section does not
8 increase or decrease the duties, if any, of a property owner,
9 operator, or his or her broker or agent under this chapter or ~~alters~~
10 *alter* the duty of a seller, agent, or broker to disclose the existence
11 of a material fact affecting the real property.

12 SEC. 3. Section 394.4 of the Public Utilities Code is amended
13 to read:

14 394.4. Rules that implement the following minimum standards
15 shall be adopted by the commission for electric service providers
16 offering electrical services to residential and small commercial
17 customers and the governing body of a public agency offering
18 electrical services to residential and small commercial customers
19 within its jurisdiction:

20 (a) Confidentiality: Except as provided in subdivision (b) of
21 Section 25402.10 of the Public Resources Code, customer
22 information shall be confidential unless the customer consents in
23 writing. This shall encompass confidentiality of customer specific
24 billing, credit, or usage information. This requirement shall not
25 extend to disclosure of generic information regarding the usage,
26 load shape, or other general characteristics of a group or rate
27 classification, unless the release of that information would reveal
28 customer specific information because of the size of the group,
29 rate classification, or nature of the information.

30 (b) Physical disconnects and reconnects: Only an electrical
31 corporation, or a publicly owned electric utility, that provides
32 physical delivery service to the affected customer shall have the
33 authority to physically disconnect or reconnect a customer from
34 the transmission or distribution grid. Physical disconnection by
35 electrical corporations subject to the commission's jurisdiction
36 shall occur only in accordance with protocols established by the
37 commission. Physical disconnection by publicly owned electric
38 utilities shall occur only in accordance with protocols established
39 by the governing board of the local publicly owned electric utility.

1 (c) Change in providers: Upon adequate notice supplied by a
2 electric service provider to the electric corporation or local publicly
3 owned electric utility providing physical delivery service,
4 customers who are eligible for direct access may change their
5 energy supplier. Energy suppliers may charge for this change,
6 provided that any fee or penalty charged by the supplier associated
7 with early termination of service, shall be disclosed in that contract
8 or applicable tariff.

9 (d) Written notices: Notices describing the terms and conditions
10 of service as described in Section 394.5, service agreements,
11 notices of late payment, notices of discontinuance of service, and
12 disconnection notices addressed to residential and small
13 commercial customers shall be easily understandable, and shall
14 be provided in the language in which the electric service provider
15 offered the services.

16 (e) Billing: All bills shall have a standard bill format, as
17 determined by the commission or the governing body, and shall
18 contain sufficient detail for the customer to recalculate the bill for
19 accuracy. Any late fees shall be separately stated. Each electric
20 service provider shall provide on all customer bills a phone number
21 by which customers may contact the electric service provider to
22 report and resolve billing inquiries and complaints. An electric
23 service provider contacted by a customer regarding a billing dispute
24 shall advise the customer at the time of the initial contact that the
25 customer may file a complaint with the commission if its dispute
26 is not satisfactorily resolved by the electric service provider.

27 (f) Meter integrity: An electric customer shall have a reasonable
28 opportunity to have its meter tested to ensure the reasonable
29 accuracy of the meter. The commission or governing body shall
30 determine who is responsible for the cost of that testing.

31 (g) Customer deposits: Electric service providers may require
32 customer deposits before commencing service, but in no event
33 shall the deposit be more than the estimated bill for the customer
34 for a three-month period.

35 (h) Additional protections: The commission or the governing
36 body may adopt additional residential and small commercial
37 consumer protection standards that are in the public interest.

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2	CORRECTIONS:	
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